

AMENDED IN ASSEMBLY AUGUST 29, 2000

AMENDED IN ASSEMBLY AUGUST 18, 2000

AMENDED IN ASSEMBLY AUGUST 31, 1999

AMENDED IN ASSEMBLY JULY 12, 1999

AMENDED IN ASSEMBLY JUNE 30, 1999

AMENDED IN SENATE MAY 10, 1999

## SENATE BILL

**No. 795**

**Introduced by Senator ~~McPherson~~ Perata and Assembly  
Member Rod Pacheco**

February 25, 1999

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An act to amend Section ~~830.5~~ 830.2 of the Penal Code,  
relating to peace officers.

### LEGISLATIVE COUNSEL'S DIGEST

SB 795, as amended, ~~McPherson~~ Perata. Peace officers:  
~~correctional counselors.~~

*Existing law provides that specified persons are peace officers, but provides that the primary duties of those peace officers include, among other things, the transportation of parolees, parole violators, or escapees.*

*This bill would, in addition, provide that for purposes of describing those peace officers that the primary duty involving transportation of parolees, parole violators, or escapees applies regardless of the mode of transportation.*

~~Under existing law, certain persons are designated as peace officers whose authority extends to any place in the state while~~

~~engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment; and as required when an emergency has been declared, or in furtherance of certain mutual aid agreements. Pursuant to this provision these peace officers may carry firearms as authorized and under the terms and conditions specified by their employers. Existing law also authorizes certain persons, including a correctional officer employed by the Department of Corrections to carry a firearm while not on duty.~~

~~This bill would include any correctional counselor series employee of the Department of Corrections within these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1    ~~SECTION 1. Section 830.5 of the Penal Code is~~  
2    *SECTION 1. Section 830.2 of the Penal Code is*  
3    *amended to read:*  
4    830.2. The following persons are peace officers whose  
5    authority extends to any place in the state:  
6    (a) Any member of the Department of the California  
7    Highway Patrol including those members designated  
8    under subdivision (a) of Section 2250.1 of the Vehicle  
9    Code, provided that the primary duty of the peace officer  
10   is the enforcement of any law relating to the use or  
11   operation of vehicles upon the highways, or laws  
12   pertaining to the provision of police services for the  
13   protection of state officers, state properties, and the  
14   occupants of state properties, or both, as set forth in the  
15   Vehicle Code and Government Code.  
16   (b) A member of the University of California Police  
17   Department appointed pursuant to Section 92600 of the  
18   Education Code, provided that the primary duty of the  
19   peace officer shall be the enforcement of the law within  
20   the area specified in Section 92600 of the Education Code.  
21   (c) A member of the California State University Police  
22   Departments appointed pursuant to Section 89560 of the



1 Education Code, provided that the primary duty of the  
2 peace officer shall be the enforcement of the law within  
3 the area specified in Section 89560 of the Education Code.

4 (d) (1) Any member of the Law Enforcement and  
5 Investigations Unit of the Department of Corrections,  
6 provided that the primary duties of the peace officer shall  
7 be the investigation or apprehension of parolees, parole  
8 violators, or escapees from state institutions, the  
9 transportation of those persons, *regardless of the mode of*  
10 *transportation*, and the coordination of those activities  
11 with other criminal justice agencies.

12 (2) Any member of the Office of Internal Affairs of the  
13 Department of Corrections, provided that the primary  
14 duties shall be criminal investigations of Department of  
15 Corrections personnel and the coordination of those  
16 activities with other criminal justice agencies. For  
17 purposes of this subdivision the member of the Office of  
18 Internal Affairs shall possess certification from the  
19 Commission on Peace Officer Standards and Training for  
20 investigators, or have completed training pursuant to  
21 Section 6126.1 of the Penal Code.

22 (e) Employees of the Department of Fish and Game  
23 designated by the director, provided that the primary  
24 duty of those peace officers shall be the enforcement of  
25 the law as set forth in Section 856 of the Fish and Game  
26 Code.

27 (f) Employees of the Department of Parks and  
28 Recreation designated by the director pursuant to  
29 Section 5008 of the Public Resources Code, provided that  
30 the primary duty of the peace officer shall be the  
31 enforcement of the law as set forth in Section 5008 of the  
32 Public Resources Code.

33 (g) The Director of Forestry and Fire Protection and  
34 employees or classes of employees of the Department of  
35 Forestry and Fire Protection designated by the director  
36 pursuant to Section 4156 of the Public Resources Code,  
37 provided that the primary duty of the peace officer shall  
38 be the enforcement of the law as that duty is set forth in  
39 Section 4156 of the Public Resources Code.

1 (h) Persons employed by the Department of Alcoholic  
2 Beverage Control for the enforcement of Division 9  
3 (commencing with Section 23000) of the Business and  
4 Professions Code and designated by the Director of  
5 Alcoholic Beverage Control, provided that the primary  
6 duty of any of these peace officers shall be the  
7 enforcement of the laws relating to alcoholic beverages,  
8 as that duty is set forth in Section 25755 of the Business and  
9 Professions Code.

10 (i) Marshals and police appointed by the Board of  
11 Directors of the California Exposition and State Fair  
12 pursuant to Section 3332 of the Food and Agricultural  
13 Code, provided that the primary duty of the peace  
14 officers shall be the enforcement of the law as prescribed  
15 in that section.

16 (j) The Inspector General, pursuant to Section 6125,  
17 and the Chief Deputy Inspector General In Charge, the  
18 Senior Deputy Inspector General, the Deputy Inspector  
19 General, and those employees of the Inspector General  
20 as designated by the Inspector General, are peace  
21 officers, provided that the primary duty of these peace  
22 officers shall be conducting audits of investigatory  
23 practices and other audits, as well as conducting  
24 investigations, of the Department of Corrections, the  
25 Department of the Youth Authority, the Board of Prison  
26 Terms, the Youthful Offender Parole Board, or the Board  
27 of Corrections.

28 ~~amended to read:~~

29 ~~830.5. The following persons are peace officers whose~~  
30 ~~authority extends to any place in the state while engaged~~  
31 ~~in the performance of the duties of their respective~~  
32 ~~employment and for the purpose of carrying out the~~  
33 ~~primary function of their employment or as required~~  
34 ~~under Sections 8597, 8598, and 8617 of the Government~~  
35 ~~Code. Except as specified in this section, these peace~~  
36 ~~officers may carry firearms only if authorized and under~~  
37 ~~those terms and conditions specified by their employing~~  
38 ~~agency:~~

39 ~~(a) A parole officer of the Department of Corrections~~  
40 ~~or the Department of the Youth Authority, probation~~

~~1 officer, deputy probation officer, or a board coordinating  
2 parole agent employed by the Youthful Offender Parole  
3 Board. Except as otherwise provided in this subdivision,  
4 the authority of these parole or probation officers shall  
5 extend only as follows:~~

~~6 (1) To conditions of parole or of probation by any  
7 person in this state on parole or probation.~~

~~8 (2) To the escape of any inmate or ward from a state  
9 or local institution.~~

~~10 (3) To the transportation of persons on parole or  
11 probation.~~

~~12 (4) To violations of any penal provisions of law which  
13 are discovered while performing the usual or authorized  
14 duties of his or her employment.~~

~~15 (5) To the rendering of mutual aid to any other law  
16 enforcement agency.~~

~~17 For the purposes of this subdivision, "parole agent"  
18 shall have the same meaning as parole officer of the  
19 Department of Corrections or of the Department of the  
20 Youth Authority.~~

~~21 Any parole officer of the Department of Corrections,  
22 the Department of the Youth Authority, or the Youthful  
23 Offender Parole Board is authorized to carry firearms,  
24 but only as determined by the director on a case-by-case  
25 or unit-by-unit basis and only under those terms and  
26 conditions specified by the director or chairperson. The  
27 Department of the Youth Authority shall develop a policy  
28 for arming peace officers of the Department of the Youth  
29 Authority who comprise "high-risk transportation  
30 details" or "high-risk escape details" no later than June 30,  
31 1995. This policy shall be implemented no later than  
32 December 31, 1995.~~

~~33 The Department of the Youth Authority shall train and  
34 arm those peace officers who comprise tactical teams at  
35 each facility for use during "high-risk escape details."~~

~~36 (b) A correctional officer employed by the  
37 Department of Corrections or any employee of the  
38 Department of the Youth Authority having custody of  
39 wards or the Inspector General of the Youth and Adult  
40 Correctional Agency or any internal affairs investigator~~

1 under the authority of the Inspector General or any  
2 employee of the Department of Corrections designated  
3 by the Director of Corrections or any correctional  
4 counselor series employee of the Department of  
5 Corrections or any medical technical assistant series  
6 employee designated by the Director of Corrections or  
7 designated by the Director of Corrections and employed  
8 by the State Department of Mental Health to work in the  
9 California Medical Facility or employee of the Board of  
10 Prison Terms designated by the Secretary of the Youth  
11 and Adult Correctional Agency or employee of the  
12 Department of the Youth Authority designated by the  
13 Director of the Youth Authority or any superintendent,  
14 supervisor, or employee having custodial responsibilities  
15 in an institution operated by a probation department, or  
16 any transportation officer of a probation department.

17 (e) The following persons may carry a firearm while  
18 not on duty: a parole officer of the Department of  
19 Corrections or the Department of the Youth Authority,  
20 a correctional officer or correctional counselor employed  
21 by the Department of Corrections or any employee of the  
22 Department of the Youth Authority having custody of  
23 wards or any employee of the Department of Corrections  
24 designated by the Director of Corrections. A parole  
25 officer of the Youthful Offender Parole Board may carry  
26 a firearm while not on duty only when so authorized by  
27 the chairperson of the board and only under the terms  
28 and conditions specified by the chairperson. Nothing in  
29 this section shall be interpreted to require licensure  
30 pursuant to Section 12025. The director or chairperson  
31 may deny, suspend, or revoke for good cause a person's  
32 right to carry a firearm under this subdivision. That  
33 person shall, upon request, receive a hearing, as provided  
34 for in the negotiated grievance procedure between the  
35 exclusive employee representative and the Department  
36 of Corrections, the Department of the Youth Authority,  
37 or the Youthful Offender Parole Board, to review the  
38 director's or the chairperson's decision.

39 (d) Persons permitted to carry firearms pursuant to  
40 this section, either on or off duty, shall meet the training

1 ~~requirements of Section 832 and shall qualify with the~~  
2 ~~firearm at least quarterly. It is the responsibility of the~~  
3 ~~individual officer or designee to maintain his or her~~  
4 ~~eligibility to carry concealable firearms off duty. Failure~~  
5 ~~to maintain quarterly qualifications by an officer or~~  
6 ~~designee with any concealable firearms carried off duty~~  
7 ~~shall constitute good cause to suspend or revoke that~~  
8 ~~person's right to carry firearms off duty.~~

9 ~~(e) The Department of Corrections shall allow~~  
10 ~~reasonable access to its ranges for officers and designees~~  
11 ~~of either department to qualify to carry concealable~~  
12 ~~firearms off duty. The time spent on the range for~~  
13 ~~purposes of meeting the qualification requirements shall~~  
14 ~~be the person's own time during the person's off-duty~~  
15 ~~hours.~~

16 ~~(f) The Director of Corrections shall promulgate~~  
17 ~~regulations consistent with this section.~~

18 ~~(g) "High-risk transportation details" and "high-risk~~  
19 ~~escape details" as used in this section shall be determined~~  
20 ~~by the Director of the Youth Authority, or his or her~~  
21 ~~designee. The director, or his or her designee, shall~~  
22 ~~consider at least the following in determining "high-risk~~  
23 ~~transportation details" and "high-risk escape details":~~  
24 ~~protection of the public, protection of officers, flight risk,~~  
25 ~~and violence potential of the wards.~~

26 ~~(h) "Transportation detail" as used in this section shall~~  
27 ~~include transportation of wards outside the facility,~~  
28 ~~including, but not limited to, court appearances, medical~~  
29 ~~trips, and interfacility transfers.~~

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